

REMARKS

Claims 1, 2, 4, 11-15, 17, 18 and 20 have been amended and new claims 21 - 31 have been added to more particularly point out and distinctly claim Applicant's invention. Claims 13 and 14 have also been amended to ensure that proper antecedent basis exists throughout each claim. New matter is not introduced by this amendment. Specifically, support for the deletion of "and hydrobromic acid" and the insertion of "additional" in claims 1 and 18 is located in the instant specification at least at page 8, lines 3-6 and page 14, lines 22-24. Support for the term "first reactor" in new claims 21, 25 and 29 is located in the instant specification at least at page 6, lines 24 and 25, page 13, lines 11-13 and FIGS. 1-3, while support of the inclusion of "second reactor" in new claims 21, 25 and 29 is located in the instant specification at least at page 7, lines 22-26, page 14, lines 8-12 and FIGS. 1-3. Further, support for the term "vapor" in new claims 24, 28 and 31 is located in the instant specification at least at page 7, line 1, page 13, line 19, page 22, lines 10 and 11, page 26, lines 4-6 and claims 1 and 18 as originally filed.

Claims 1-20 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting ("ODP rejection") as being unpatentable over claims 1-22 of copending U.S. patent application no. 11/101,886. The Examiner commented that "[t]his is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented."

In response to arguments advanced in a Request for Reconsideration without Amendment dated January 31, 2006, the Examiner commented in part that "[t]he argument that the instant application is the "earlier filed application" and as the ODP rejection is the only rejection of record, the need for filing a terminal disclaimer in the instant application is obviated and the ODP should be withdrawn is not persuasive because the later filed application (11/101,886) have not docket to me or even to my Art Unit yet. Since the later filed application has not been examined, there is no way to know whether or not the later filed application is rejectable on other grounds."

In the present circumstance, the known fact is that an ODP rejection presently exists in the captioned application which is the earlier filed of the two pending

applications in question. As stated in the Examiner's comments, it is presently indeterminable whether or not the later filed application is rejectable on other grounds. M.P.E.P. §804 I.B. "Instances Where Double Patenting Issue can be Raised between Copending Applications-Provisional Rejections" states that "[t]he "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in at least one of the applications." Further, M.P.E.P. §804 I.B.1. "Nonstatutory Double Patenting Rejections" states that "If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. ...If "provisional" ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer. [emphasis added]" Accordingly, it is immaterial to the disposition of the ODP in the captioned application (i.e., the earlier filed application) whether the ODP is the only rejection of record made in the later filed application (i.e. 11/101,886) or if other rejections of record are made. In either case, where the ODP rejection is the only remaining rejection of record in the earlier filed application, M.P.E.P. §804 I.B.1 instructs that the ODP rejection should be withdrawn and the earlier-filed application permitted to issue as a patent without a terminal disclaimer. As the instant application is the "earlier filed application" and as the ODP rejection is the only rejection of record, the need for filing a terminal disclaimer in the instant application is obviated and the ODP rejection of claims 1-20 as being unpatentable over claims 1-22 of copending U.S. patent application no. 11/101,886 should be withdrawn.

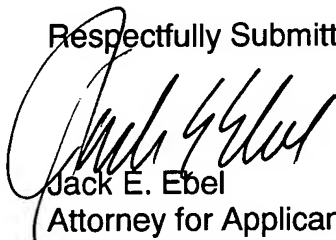
The Examiner further commented that "[m]oreover, even if the later filed application has been examined and it is rejectable on other grounds, a terminal disclaimer must be required in the later-filed application before the ODP rejection can be withdrawn. See M.P.E.P. §804 I.B." The "ODP rejection" referred to in the

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Examiner's comments and the M.P.E.P. section referenced is the ODP rejection in the later-filed case which is not at issue in the captioned application.

In view of the foregoing, Applicant requests allowance of claims 1-31.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jack E. Ebel", is written over the printed name.

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